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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,550	11/12/1999	CHRISTOPHER T. GRASTEIT	ETAK-07735US	1780
23910	7590	07/30/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			COLBERT, ELLA	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/439,550

Applicant(s)

GRASTEIT, CHRISTOPHER T.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1, 2, 3, 4, and 6-16 are pending. Claims 3, 6, 12, and 15 have been amended in this Amendment After Final Rejection and Extension of Time filed 06/30/04.
2. Applicant's finality of the rejection of the last Office action has been withdrawn in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3, 6, 12, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, reads "identifying an anchor point; defining plurality of radials extending from said anchor point; and associating at least one item relating to said anchor point with each of said plurality of radials". It is unclear and vague how the anchor point is identified, the radials defined, and what is meant by at least one item relating to the anchor point. There appear to be steps omitted from the claim. Claim 3 has a similar problem. Claim 6 does not say how the anchor point is defined or how or what the item is that is associated to the anchor point. Claim 12 does not say how the anchor point is identified or how or what the item is that is associated with the anchor point. Claim 15 does not say how the anchor point is identified or how the anchor point is defined. Clarification in the claim language is respectfully requested.

Claim 3, line 6 reads "interpolating positions on a respective radial corresponding to each of outside data matches". This limitation is unclear to the Examiner. Does Applicant mean "interpolating positions on a respective radial corresponding to each of the outside data matches" or "interpolating positions on a respective radial corresponding to each outside data matches"?

Claim 6 appears to have some steps out of sequence. For example: step two after "identifying an anchor point; storing said plurality of radials in a database, wherein said identifying an anchor point includes: identifying said anchor point in said database; defining a plurality of radials extending from said anchor point, wherein said defining a plurality of radials comprises: assigning a direction to each radial; and calculating an endpoint for each radial from said centroid to its endpoint; associating at least one item relating to said anchor point with each of said plurality of radials; and associating comprises; associating information in said database with said plurality of radials, said information relating to said anchor point." Claim 12 appears to have some steps omitted in the claim. For example: step three after "identifying an anchor point; associating at least one item relating to said anchor point with each of said plurality of radials; defining a plurality of radials extending from said anchor point, wherein said defining a plurality of radials comprises: assigning a direction to each respective radial; and calculating an endpoint for each respective radial, defining each respective radial from said centroid to its endpoint."

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1, 3, 4, and 6-16 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

The method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim at least one structural/functional interrelationship which can only be computer implemented is considered to have a technological basis [See *Ex parte Bowman*, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential]. Suggestion: “in a computer, identifying an anchor point” or “in a computer, associating at least one item relating to said anchor point with each of said plurality of radials.”.

#### ***Claim Objections***

7. Claims 1, 3, 6, 12, and 15 are objected to because of the following informalities: Claims 1, 3, 6, 12, and 15 read “defining plurality of radials extending from said anchor point;”. This line would be better read “defining a plurality of radials extending from said anchor point;”. Appropriate correction is required.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 3, 4, and 6-16 have been considered but are moot in view of the new ground(s) of rejection.

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### Inquiries

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert  
July 26, 2004